

### § 240.3

which includes the following information regarding each outstanding demand for refund:

- (1) The reclamation date;
- (2) The reclamation number;
- (3) Check identifying information; and
- (4) The balance due, including interest.

(i) *Person* or *persons* means an individual or individuals, or an institution or institutions including all forms of financial institutions.

(j) *Presenting bank* means:

(1) A financial institution which, either directly or through a correspondent banking relationship, presents checks to and receives provisional credit from a Federal Reserve Bank; or

(2) A depository which is authorized to charge checks directly to the General Account of the United States Treasury and present them to Treasury for payment through a designated Federal Reserve Bank.

(k) *Protest* means a presenting bank's written statement and any supporting documentation tending to prove that it is not liable for refund of the reclamation balance.

(l) *Reclamation* means a demand by Treasury for refund of the amount of a check payment.

(m) *Reclamation date* means the date on which a demand for refund was prepared. Normally, demands are sent to presenting banks within two working days of the reclamation date.

(n) *Treasury* means the United States Treasury.

(o) *U.S. securities* means securities of the United States and securities of Federal agencies and wholly or partially government-owned corporations for which the Treasury acts as the transfer agent.

(p) *Unauthorized indorsement* means:

(1) An indorsement made by a person other than the payee, except as authorized by and in accordance with § 204.5 and §§ 240.11 through 240.15;

(2) An indorsement by a financial institution under circumstances in which the financial institution breaches the guaranty required of it by 31 CFR 209.9(a) (*See*, 31 CFR 209.8); or

### 31 CFR Ch. II (7-1-02 Edition)

(3) A missing indorsement where the depository bank had no authority to supply the indorsement.

#### § 240.3 Limitations on payment.

(a) As a general rule,

(1) The Commissioner shall not be required to pay a Treasury check issued on or after October 1, 1989 unless it is negotiated to a financial institution within 12 months after the date on which the check was issued; and

(2) The Commissioner shall not be required to pay a Treasury check issued before October 1, 1989 unless it is negotiated to a financial institution no later than October 1, 1990.

(b) All checks drawn on the United States Treasury and issued on or after October 1, 1989 shall bear a legend, stating "Void After One Year." The legend is notice to payees and indorsers of a general limitation on the payment of Treasury checks. The legend, or the inadvertent lack thereof, does not limit, or otherwise affect, the rights of the Commissioner under the law.

(c) The Treasury shall have the usual right of a drawee to examine checks presented for payment and refuse payment of any checks. The Treasury shall have a reasonable time to make such examination.

(d) Checks shall be deemed to be paid by the United States Treasury only after first examination has been fully completed.

(e) If the Treasury is on notice of a question of law or fact about whether a Treasury check is properly payable when the check is presented for payment, the Commissioner may defer payment until the Comptroller General settles the question.

#### § 240.4 Cancellation and distribution of proceeds of checks.

(a) *Checks issued on or after October 1, 1989.* (1) Any check issued on or after October 1, 1989 that has not been paid and remains outstanding for more than 12 months shall be cancelled by the Commissioner.

(2) The proceeds from checks cancelled pursuant to paragraph (a) of this section shall be returned to the agency which authorized the issuance of the

## Fiscal Service, Treasury

## § 240.7

check and credited to the appropriation or fund account initially charged for the payment.

(3) Beginning January 1, 1991, and monthly thereafter, the Commissioner shall provide to each agency that authorizes the issuance of Treasury checks a list of those checks issued for such agency which were cancelled during the preceding month pursuant to paragraph (a) of this section.

(b) *Checks issued before October 1, 1989.*

(1) Any check issued before October 1, 1989 that has not been paid and remains outstanding for more than 12 months shall be cancelled by the Commissioner no later than April 1, 1991.

(2) The proceeds from checks cancelled pursuant to paragraph (b) of this section shall be applied as required by 31 U.S.C. 3334.

### § 240.5 Guaranty of indorsements.

The presenting bank and the indorsers of a check presented to the Treasury for payment are deemed to guarantee to the Treasury that all prior indorsements are genuine, whether or not an express guaranty is placed on the check. When the first indorsement has been made by one other than the payee personally, the presenting bank and the indorsers are deemed to guarantee the Treasury, in addition to other warranties, that the person who so indorsed had unqualified capacity and authority to indorse the check on behalf of the payee.

### § 240.6 Reclamation of amounts of paid checks.

(a) If, after a check has been paid by Treasury, it is found to:

(1) Bear a forged or unauthorized indorsement; or

(2) Contain any other material defect or alteration which was not discovered upon first examination, then, upon demand by the Treasury in accordance with the procedures specified in § 240.7 of this part, the presenting bank or other indorser shall refund the amount of the check payment.

(b) Interest on any unpaid item shall commence to accrue on the sixty-first day after the reclamation date. Interest shall be calculated at the rate set from time to time for purposes of 31 U.S.C. 323. Interest shall continue to

accrue until the amount demanded is paid or the reclamation is abandoned by Treasury.

(c) In addition to its right to recover interest, Treasury shall have the right to recover such other applicable charges (*e.g.*, administrative collection costs, late payment penalties) as may be authorized or required by law.

(d) If the Treasury determines that a check has been paid over a forged or unauthorized indorsement, the Commissioner may reclaim the amount of the check from the presenting bank or any other indorser that breached its guarantee of indorsement prior to:

(1) The end of the one-year period beginning on the date of payment; or

(2) The expiration of the 180-day period beginning on the close of the period described in paragraph (d)(1) of this section if a timely claim under 31 U.S.C. 3702 is presented to the agency which authorized the issuance of the check.

### § 240.7 Demand and protest.

(a) For all reclamations an initial demand for refund of the amount of a check payment will be made by sending a "Request for Refund (Reclamation)," to the presenting bank or any other indorser. This Request shall advise the presenting bank of the amount demanded and the reason for the demand. Treasury will make follow-up demands by including each unpaid item on at least three monthly interest billing statements sent to the presenting bank. Monthly interest billing statements will identify any unpaid reclamation demands and will also show the amount of any accrued interest for each outstanding reclamation. Any discrepancies should be brought to Treasury's attention immediately at the address listed in paragraph (b) of this section. Monthly interest billing statements will contain or be accompanied by notice to the bank:

(1) That Treasury intends to collect the debt through administrative offset in accordance with § 240.8 if the reclamation is not paid within 120 days of the reclamation date, and if administrative offset is unsuccessful, that Treasury intends to collect the debt through Treasury Check Offset in accordance with § 240.9;